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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.            | CONFIRMATION NO.   |
|---|-------------|----------------------|--------------------------------|--------------------|
| 09/137,503  | 08/20/1998  | PETER A. GRAEF       | WEYCI11558                     | 2949               |
| 26389   | 7590        | 02/23/2004           |                                |                    |
| CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC<br>1420 FIFTH AVENUE<br>SUITE 2800<br>SEATTLE, WA 98101-2347 |             |                      | EXAMINER<br>KIDWELL, MICHELE M |                    |
|   |             |                      | ART UNIT<br>3761               | PAPER NUMBER<br>30 |
| DATE MAILED: 02/23/2004   |             |                      |                                |                    |

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/137,503

Applicant(s)

GRAEF ET AL.

Examiner

Michele Kidwell

Art Unit

3761

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 05 November 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 10/21/03 following 1 month ~~months from the mailing date of the final rejection.~~ <sup>Eq</sup>
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_

Claim(s) objected to: \_\_\_\_\_

Claim(s) rejected: 1,6-13,16-20,32 and 75-77.Claim(s) withdrawn from consideration: 14,15,21-23,26 and 31.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_

  
JOHN P. CALVERT  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700

Continuation of 5. does NOT place the application in condition for allowance because: the applicant's representative states that the claims have been amended to change the word "binder" to "binder material" as suggested by the Examiner for the purpose of clarity. The Examiner finds no suggestion of such change in language in the previous office actions. The previous Examiner indicated that two distinct binders were being claimed and that a distinction should be made between the two binders, but the Examiner never suggested the language used by the applicant's representative to amend the claims. Page 12 of the specification defines a binder as a system that bonds materials. The term "binder material" is not supported by the originally filed disclosure and the scope of the term is unclear. Therefore, the examiner maintains the assertion that the addition of the limitations changing a binder to binder materials will require further searching and consideration. Further, in the Advisory Action dated 10/21/03, the examiner stated that the addition of other limitations such as requiring the binder material of the first stratum to comprise a fibrous binding material or a wet strength agent and requiring the binder material of the first stratum to be one of a bicomponent binding fiber and wet strength agent will also require further searching and consideration. The applicant's Request for Reconsideration dated 11/5/03 does not address those concerns. Lastly, the applicant's representative states that the amendments to claims 1 and 75 place the application in condition for allowance based on the allowance of a similarly amended claim in a related application (Application No. 09/624,263). The examiner disagrees with this statement because the allowed claims of Application No. 09/624,263 require either (1) a wetlaid absorbent composite, (2) a foam-formed absorbent composite or (3) an absorbent composite in combination with a second stratum comprising an absorbent material, which are limitations that are not set forth in the claims of the instant application.